

Plaintiff now asks the Court to appoint him counsel to represent him in this action which he describes as a class action. The Court will deny the motion. Courts may appoint counsel pursuant to 28 U.S.C. § 1915(e)(1) in IFP proceedings. However, there is no automatic

right to the appointment of counsel in a civil lawsuit. *Cupit v. Jones*, 835 F.2d 82, 86 (5th Cir. 1987). Rather, a district court has discretion to appoint counsel based on the type and complexity of the case presented and the abilities of the individual pursuing it. *Id.*; *Jackson v. Dallas Police Dep't*, 811 F.2d 260, 261 (5th Cir. 1986). Appointment of counsel in a civil case is considered a privilege, not a constitutional right, and should be allowed only in exceptional circumstances. *Lopez v. Reyes*, 692 F.2d 15, 17 (5th Cir. 1982) (citation omitted); *see Cupit*, 835 F.2d at 86. In evaluating whether the appointment of counsel is proper under § 1915(e), the district court considers the type and complexity of the case, the litigant's ability to investigate and present the case, and the level of skill required to present the evidence. *See Castro Romero v. Becken*, 256 F.3d 349, 354 (5th Cir. 2001).

In this case, Plaintiff has not demonstrated that the prerequisites for a class action exist and further, as a *pro se*, Plaintiff may not proceed as a class representative. *See* Fed. R. Civ. P. 23 (c)(1)(B). Nor has Plaintiff demonstrated either that exceptional circumstances are present in his case or that, based on the record, appointment of counsel is appropriate under the applicable legal standards under 28 U.S.C. § 1915(e).

IT IS THEREFORE ORDERED that Plaintiff's Motion to Appoint Attorney [#10] is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's response to this Court's Order to Show Cause [#5] is due **on or before September 25, 2019**. If Plaintiff fails to comply with the Show Cause Order, his Complaint can also be dismissed for failure to prosecute and failure to comply with this Order. *See* Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

SIGNED this 19th day of September, 2019.



ELIZABETH S. ("BETSY") CHESTNEY
UNITED STATES MAGISTRATE JUDGE